

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

TERRI L. ALEXANDER,

Plaintiff,

No. 01:12-cv-00693-HZ

v.

CAROLYN L. COLVIN, Commissioner
of Social Security,

ORDER

Defendant.

Plaintiff Terri Alexander brought this action seeking review of the Commissioner's decision to deny her applications for disability insurance benefits (DIB). In an April 1, 2013 Opinion & Order, I reversed the Commissioner's decision, concluding that the Administrative Law Judge (ALJ) had improperly rejected Plaintiff's treating and examining physicians' opinions as well as Plaintiff's subjective testimony. I ordered that the case be remanded for an award of benefits to Plaintiff. Judgment was entered on April 4, 2013.

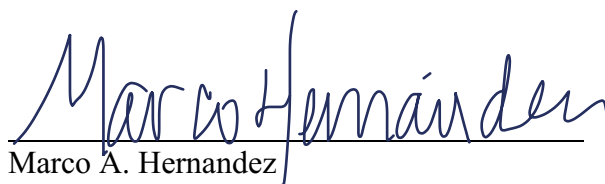
Plaintiff now seeks an award of fees pursuant to 42 U.S.C. § 406(b). Defendant has no objection to the request. I have reviewed the record in the case, the motion, and the supporting

materials including the award of benefits, the fee agreement with counsel, and the recitation of counsel's hours and services. Applying the standards set by Gisbrecht v. Barnhart, 535 U.S. 789, 796 (2002), I find the requested fees reasonable.

I grant the motion [#22] and award Plaintiff's counsel \$18,259.38¹ in attorney's fees under 42 U.S.C. § 406(b). Previously, I awarded plaintiff attorney's fees in the amount of \$5,273.52 under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. When issuing the section 406(b) check for payment to Plaintiff's attorney, the Commissioner is directed to subtract the amount previously awarded under EAJA and send Plaintiff's attorney \$18,259.38, less any applicable processing fees as allowed by statute.

IT IS SO ORDERED.

Dated this 5 day of Jan, 2014


Marco A. Hernandez
United States District Judge

¹ The Commissioner has withheld a total of \$31,442.50 as twenty-five percent of the retroactive benefits awardable as fees under section 406(b). Plaintiff's counsel seeks less than that amount in recognition that some of the retroactive benefits were paid to Plaintiff's children. Subtracting the previously awarded EAJA fee from the \$31,442.50 presently withheld amount leaves \$26,198.98. Plaintiff's counsel is awarded \$18,259.38 because that is the total amount he requests.